

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KEITH CRUCE,

Plaintiff,

v.

CASE NO. 2:09-CV-11523
HONORABLE VICTORIA A. ROBERTS

MICHIGAN DEPT. OF CORR, et al.,

Defendants.

ORDER DENYING PLAINTIFF’S MOTION FOR RECONSIDERATION [DKT #9]

Before the Court is Plaintiff’s “Motion in Opposition to Order and Opinion Denying or Summarily Dismissing Complaint and Appointment of Counsel” concerning the Court’s summary dismissal of his civil rights complaint brought pursuant to 42 U.S.C. § 1983 and denial of his request for counsel. The Court dismissed Plaintiff’s the complaint pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A for failure to state a claim upon which relief may be granted and on the basis of immunity. Plaintiff now seeks reconsideration and reversal of the Court’s decision dismissing his complaint and denying his request for counsel.

The Court confirms that it properly dismissed Plaintiff’s complaint for failure to state a claim upon which relief may be granted under § 1983 and on the basis of Eleventh Amendment immunity. As discussed in the Court’s opinion, icy prison walkways do not give rise to a constitutional violation under the Eighth Amendment. Plaintiff has, at best, alleged that an unnamed corrections officer was negligent in responding to his concerns, which fails to state a constitutional claim. Plaintiff has also failed to show the personal involvement of the named defendants. Furthermore, those defendants are entitled to Eleventh Amendment immunity.

A motion for reconsideration which presents issues already ruled upon by the court, either expressly or by reasonable implication, will not be granted. *See Hence v. Smith*, 49 F. Supp. 2d 547, 550 (E.D. Mich. 1999); *Czajkowski v. Tindall & Assoc., P.C.*, 967 F. Supp. 951, 952 (E.D. Mich. 1997). Plaintiff has not met his burden of showing a palpable defect by which the Court has been misled or his burden of showing that a different disposition must result from a correction thereof, as required by Local Rule 7.1(g)(3). The Court properly dismissed Plaintiff's complaint and denied his request for counsel. Accordingly, the Court **DENIES** Plaintiff's motion. This case is closed. No further pleadings should be filed in this matter.

S/Victoria A. Roberts

Victoria A. Roberts

United States District Judge

Dated: June 3, 2009

The undersigned certifies that a copy of this document was served on the attorneys of record and Keith Cruce by electronic means or U.S. Mail on June 3, 2009.

s/Carol A. Pinegar

Deputy Clerk